

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 19-0509V

UNPUBLISHED

PATRICIA COOPER,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: September 18, 2020

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA)

Paul R. Brazil, Muller Brazil, LLP, Dresher, PA, for petitioner.

James Vincent Lopez, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On April 8, 2019, Patricia Cooper filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza (“flu”) vaccination she received on September 11, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On July 13, 2020, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On September 17, 2020, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$56,199.33 (comprised of \$55,000.00 for pain and suffering and \$1,199.33 for past unreimbursed out-of-pocket expenses). Proffer at 1. In the Proffer, Respondent represented that Petitioner

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$56,199.33 (comprised of \$55,000.00 for pain and suffering and \$1,199.33 for unreimbursed out-of-pocket medical expenses) in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

)	
PATRICIA COOPER,)	
)	
Petitioner,)	
)	No. 19-509V
v.)	Chief Special Master Corcoran
)	ECF
SECRETARY OF HEALTH AND)	
HUMAN SERVICES,)	
)	
Respondent.)	
)	

I. Compensation for Vaccine Injury-Related Items

Based upon the evidence of record, respondent proffers that petitioner¹ should be awarded \$56,199.33. This is comprised of pain and suffering (\$55,000.00) and past unreimbursed out-of-pocket medical expenses (\$1,199.33), and represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a).² Petitioner agrees.

² Should Petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief.

II. Form of the Award

Respondent recommends that the compensation provided to petitioner should be made through:

a lump sum of **\$56,199.33** in the form of a check payable to petitioner. This amount represents compensation for all damages that would be available under **42 U.S.C. § 300aa-15(a)**.

Petitioner agrees.

Respectfully submitted,

JEFFREY BOSSERT CLARK
Acting Assistant Attorney General

C. SALVATORE D’ALESSIO
Acting Director
Torts Branch, Civil Division

CATHARINE E. REEVES
Deputy Director
Torts Branch, Civil Division

DARRYL R. WISHARD
Assistant Director
Torts Branch, Civil Division

s/ JAMES V. LOPEZ
James V. Lopez
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146, Ben Franklin Station
Washington, D.C. 20044-0146
Tel: (202) 616-3655
Fax: (202) 616-4310
Email: james.lopez@usdoj.gov

Dated: September 17, 2020